

Section by Section Summary Rail and Public Transportation Security Act of 2007

Subcommittee on Transportation Security and Infrastructure Protection

Section 1 – Short Title and the Table of Contents

Section 2 – Definitions

This act defines several terms, but the most important to this legislation are the definitions of “appropriate stakeholders” and “covered transportation. This act defines the term “appropriate stakeholders” to mean, providers of covered transportation, organizations representatives of covered transportation, labor organizations, shippers of hazardous material, manufactures of rail and transit cars, state departments of transportation, public safety officials, and first responders. The term “covered transportation” means transportation provided by a railroad carrier, public transportation, and transportation provided by an over the road bus. The term “over the road bus” means a bus characterized by an elevated passenger deck over a baggage compartment.

Section 3 – National Strategy for Rail and Public Transportation Security –

This section requires the Secretary of the Department of Homeland Security (DHS), in consultation with the Secretary of the Department of Transportation (DOT), to develop a comprehensive modal plan for covered transportation entitled, “National Railroad and Public Transportation Security Plan.” The plan must:

- include a description of roles and responsibilities
- identify and address gaps and unnecessary overlap in the roles and responsibilities
- develop methodology to use expertise with DHS and DOT
- devise a plan for expediting security clearances and facilitate intelligence and information sharing
- describe past DHS and DOT reviews of terrorists attacks, including lessons learned, and future application of lessons learned
- include a strategy and timeline for DHS and DOT to research and develop new technology
- prescribe measurable goals and schedules
- include a framework for resuming operations after an act of terrorism
- describe current and future outreach
- produce a process for coordinating security strategies and plans between agencies

Section 4 – Assignment of Providers of Covered Transportation to Risk-Based Tiers-

This section requires the Secretary of Homeland Security to assign each rail and public transportation system to one of no fewer than three tiers. No later than 60 days after the date that the rail or public transportation system is assigned to a tier, the Secretary shall notify the rail or public transportation system of the tier to which the carrier or system is assigned. At least 2 tiers established under this section shall be tiers designated for high and medium-risk rail and public transportation systems.

Section 5 – Rail and Public Transportation Assessments and Plans –

This section requires the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, to issue regulations within one year of enactment to require the tiered rail and public transportation systems to complete vulnerability assessments and security plans. No later than 6 months after the date of issuance of the regulations, high and medium risk covered transportation providers are required to complete and submit vulnerability assessments and security plans to the Secretary of the Department of Homeland Security for review and approval. Not later than 12 months after the date of issuance of the regulations, the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, is required to approved or disapprove the security plans. In the meantime, providers must implement interim security measures. The regulations will require transportation providers not assigned to a high or medium risk tier to perform vulnerability assessment and implement security plans, rather than submit them to the Secretary for approval.

DHS in consultation with DOT will provide assistance to providers in conducting vulnerability assessments. These vulnerability assessment for a high or medium risk provided must include:

- identification and evaluation of critical asses and infrastructure
- identification of threats to infrastructure
- identification of security weaknesses
- identification of redundancies to ensure continued operation in the event of attack or other disruption

Providers conducting vulnerability assessments must incorporate threat information provided by DHS and other sources.

Security plans for providers in the high and medium risk categories must include:

- identification of a security coordinator
- security measures to address weaknesses
- plans for periodic drills and exercises
- list of needed capital and operational improvements

- evacuation and passenger communication plans
- steps to be taken with state and local law enforcement and emergency responders to coordinate response measures
- strategy and timeline for conducting training
- enhanced security measures to be taken when a period of heightened security is announced
- plans for redundant and backup systems to ensure the continues operation of critical elements of the system
- plans for locating railroad cars transporting hazardous materials
- other actions or procedures deemed appropriate by DHS

DHS will ensure that security plans are consistent with the National Strategy for Rail and Public Transportation Security.

DHS, by regulation, will establish security performance requirements for the security plans. These requirements will be somewhat flexible but stricter for higher tier providers.

This section also contains administrative, civil, and criminal penalty language specific to this act. Administrative penalties cannot be more than \$75,000, civil penalties are limited to \$50,000 per day in violation of this section, and criminal penalties are limited to a fine of not more than \$50,000 per day in violation and imprisonment for two years.

Vulnerability assessments and security plans conducted pursuant to this section may be built upon prior assessments and plans. The Secretary of the Department of Homeland Security may also endorse the existing vulnerability assessments and security plans if the Secretary of the Department of Homeland Security determines that these assessments and plans meet the requirements of this section. The bill also requires the railroad carriers and public transportation agencies to resubmit their vulnerability assessments and security plans for approval by the Secretary of the Department of Homeland Security on a continuous basis thereafter.

Section 6 – Strategic Information Sharing Plan –

This section requires the Secretary of the Department of Homeland Security to create a Strategic Information Sharing Plan to improve information sharing within the Administration and between the Administration and private and public sector stakeholders including State, local, and tribal authorities, and railroad carriers, public transportation agencies, and labor organizations. This plan must be developed and submitted to Congress no later than 90 days after enactment. This section also requires the Secretary of the Department of Homeland Security to conduct an annual survey of the satisfaction of the recipients of the products produced by the Department of Homeland Security transportation security intelligence analysts. Additionally, the Secretary of the Department of Homeland Security is required to disseminate information, to the greatest extent possible, at the unclassified level. If information must be disseminated at the classified level, then the Secretary of the Department of Homeland Security is required to assist the appropriate stakeholders in attaining security clearances.

Section 7 – Railroad Security Assistance–

Under this section, the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, is responsible for establishing a grant program for improving the security of railroad carriers, including AMTRAK. The bill specifies certain uses for the money. The bill also includes an 80%-20% matching requirement. Grantees under this section are required to submit semiannual report to the Secretaries of the Departments of Homeland Security and Transportation describing expenditures made pursuant to the grant. This section allows DHS to issue letters of intent to grant recipients. This section authorizes \$600,000,000 to be appropriated for grants for the fiscal years 2008-2011.

Section 8 – Public Transportation Security Assistance –

Under this section, the Secretary of the Department of Homeland Security, in consultation with the Secretary of Transportation, is responsible for establishing a grant program for improving the security of public transportation systems. The bill specifies certain uses for the money. The bill also includes an 80%-20% matching requirement. Grantees under this section are required to submit semiannual report to the Secretaries of the Departments of Homeland Security and Transportation describing expenditures made pursuant to the grant. This section authorizes appropriations for grants in the amounts of \$775,000,000 for FY08; \$825,000,000 for FY09; and \$880,000,000 for FY10 and FY11.

Section 9 – Over-the-Road Bus Security Assistance–

This section authorizes the Secretary of the Department of Homeland Security, in consultation with the Secretary of Transportation, to establish a grant program for improving the security of over-the-road bus systems. The bill specifies certain uses for the money. The bill also includes an 80%-20% matching requirement. In order to receive a grant, over-the-road bus operators must submit a security plan to the Secretary of the Department of Homeland Security for review and approval. This section authorizes appropriations in the amounts of \$12,000,000 for FY08 and \$25,000,000 for FY09 through FY11.

Section 10 – Fire and Life Safety Improvements –

This section authorizes funds to be appropriated to the Secretary of the Department of Transportation, in coordination with the Secretary of the Department of Homeland Security, to make grants to Amtrak for the purpose of carrying out projects to make fire and life-safety improvements to Amtrak tunnels along the Northeast Corridor – 6 tunnels in New York City; the Baltimore & Potomac Tunnel; the Union Tunnel in Baltimore, Maryland; and the Union Station tunnels in Washington, D.C.

Section 11 – Security Training Program –

Under this section, the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, is required to develop a security training program within 90 days after enactment of this Act for railroad and public transportation employees. The guidance for these programs will be developed in consultation with law enforcement and terrorism experts, and labor and industry representatives. Not later than 60 days after the Secretary issues this guidance, the railroad carriers and public transportation agencies must develop a security training program and submit it to the Secretary for approval. The Secretary shall have 60 days to approve or disapprove this plan. Not later than 1 year after the Secretary approves the plan, all workers must have received security training.

Section 12 – Security Exercises –

The Secretary of the Department of Homeland Security, working with the Secretary of the Department of Transportation, is required to establish an exercise program for the purposes of testing and evaluating the ability of railroad carriers and public transportation agencies to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism. Railroad carriers and public transportation agencies shall be tested and evaluated, along with federal, state and local agencies, and non governmental emergency response providers.

Section 13 – Security Research and Development –

This section requires the Secretary of the Department of Homeland Security to establish a research and development program for rail and public transportation security. The Secretary of the Department of Homeland Security is required to ensure that DHS activities are coordinated with those undertaken by the National Academy of Sciences, the Department of Transportation, and private laboratories. In implementing this program, the Secretary is required to consult with the Department of Homeland Security Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties. The Chief Privacy Officer shall be required to conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section.

Section 14 – Whistleblower Protections –

This section provides whistleblower protections for employees of the Department of Homeland Security and Department of Transportation, contractor or subcontractors of those two agencies, and employees of providers of covered transportation.

Section 15 – Increase in Surface Transportation Security Inspectors (STSI) –

This section increases the current number of STSIs. By 2010, under this Act there should be at least 500 STSIs (there are approximately 100 STSIs now). Additionally, this section mandates certain requirements in order to be hired as an STSI. The Secretary of

the Department of Homeland Security, in coordination with the Secretary of the Department of Transportation, is required to develop a standard operating procedure clearly defining the relationship between the Department of Homeland Security STSI and the Department of Transportation safety and security inspectors; state, local, and tribal law enforcement officials; and railroad carrier police officers.

Section 16 – National Transportation Security Center of Excellence –

The section requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation, to create at least one national transportation security center of excellence at an institution of higher education to assist in carrying out research and development and to develop and provide professional training. At least two of the consortium colleges and universities associated with this center of excellence will be a minority serving institution.

Section 17 – TSA Personnel Limitations –

Any statutory limitation on the number of Transportation Security Administration employees shall not apply to employees implementing this bill.

Section 18 – Penalties –

This section provides the Transportation Security Administration with general administrative, civil, and criminal penalty authority. TSA already possesses specific authority to enforce aviation security measures under 49 USC 46301, but lacks such authority in other modes of transportation.